

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA ex rel.  
SUSAN HUTCHESON,

Plaintiff,

-against-

BLACKSTONE MEDICAL, INC.,

Defendant.

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Civil Action No.  
06-11771-WGY

**STIPULATION OF DISMISSAL**

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the Federal False Claims Act, 31 U.S.C. § 3730(b)(1), and in accordance with the terms and conditions of the October 29, 2012 Settlement Agreement among the United States, Blackstone Medical Inc. ("Blackstone"), and Relator Susan Hutcheson (the "Federal Settlement Agreement"), the Parties hereby stipulate, through their undersigned counsel, to the entry of an order (1) dismissing with prejudice all civil monetary claims asserted by or on behalf of the United States against Blackstone for the Covered Conduct as defined in Preamble Paragraph D of the Federal Settlement Agreement; (2) dismissing without prejudice to the United States and with prejudice to Relator all other claims; and (3) dismissing with prejudice all claims asserted on behalf of Relator for attorneys' fees under 31 U.S.C. § 3730(d).

Pursuant to the Federal Settlement Agreement, Relator, on behalf of herself, her heirs, successors, attorneys, agents, and assigns, has agreed, and therefore stipulates, that the Settlement Amount set forth in the Federal Settlement Agreement and the terms and conditions described therein are fair, adequate, and reasonable under all the circumstances, that she will not challenge the

settlement pursuant to 31 U.S.C. § 3730(c)(2)(B), and that she expressly waives the opportunity for a hearing on any objection to the settlement pursuant to 31 U.S.C. § 3730(c)(2)(B).

By Notice filed November 21, 2008 (Docket No. 25), the United States filed a notice that it was not intervening in this action. In accordance with 31 U.S.C. § 3730(b)(1), a Relator may maintain and litigate a non-intervened or declined action in the name of the United States, provided, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal . . .” Id. Pursuant to 31 U.S.C. § 3730(b)(1), the United States of America, by its undersigned counsel, hereby respectfully notifies the Court that the Attorney General consents to the dismissal of this action, and all claims asserted therein, on the terms detailed herein, on the grounds that such dismissal is in the interests of the United States.

The parties respectfully request that the Court enter an order of dismissal in the form proposed herewith.

**FOR THE UNITED STATES:**

DATED: November 12, 2012

STUART F. DELERY  
Acting Assistant Attorney General,  
Civil Division

~~CARMEN M. ORTIZ~~  
~~United States Attorney~~

By: 

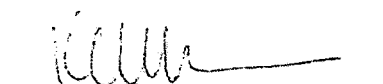
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Civil Division, U.S. Department of Justice  
DAVID T. COHEN  
Senior Trial Counsel

FOR BLACKSTONE MEDICAL, INC.:

DATED: November 9, 2012

BY:

A handwritten signature in black ink, appearing to read "Brien T. O'Connor", written over a horizontal line.

Brien T. O'Connor, Esq.  
Kirsten V. Mayer, Esq.  
Nicholas J. Linder, Esq.  
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**FOR RELATOR SUSAN HUTCHESON:**

BY:

A handwritten signature in black ink, reading "Jennifer M. Verkamp". The signature is written in a cursive style with a large, looping initial "J".

Jennifer Verkamp, Esq.  
Frederick M. Morgan, Esq.  
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